

BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP
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Attorney for BAC HOME LOANS SERVICING, LP FKA COUNTRYWIDE HOME LOANS SERVICING,
L.P. ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION

IN RE:	§	CASE NO. 08-70473-HDH-13
	§	
JOHN FRITZ SELF and PAIGE	§	
DEAN SELF,	§	
Debtor	§	CHAPTER 13
	§	
BAC HOME LOANS SERVICING, LP	§	
FKA COUNTRYWIDE HOME	§	
LOANS SERVICING, L.P. ITS	§	
ASSIGNS AND/OR SUCCESSORS IN	§	
INTEREST,	§	
Movant	§	HEARING DATE: 06/24/2009
	§	
v.	§	TIME: 11:00 AM
	§	
JOHN FRITZ SELF and PAIGE	§	
DEAN SELF; WALTER O'CHESKEY,	§	
Trustee	§	
Respondents	§	JUDGE HARLIN D. HALE

**MOTION OF BAC HOME LOANS SERVICING, LP FKA COUNTRYWIDE HOME
LOANS SERVICING, L.P. ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST
FOR RELIEF FROM STAY OF ACTION AGAINST DEBTOR(S) PURSUANT TO 11
U.S.C. § 362(a) AND WAIVER OF THIRTY DAY REQUIREMENT PURSUANT TO
§ 362(e)**

NOTICE - RESPONSE REQUIRED

**PURSUANT TO LOCAL BANKRUPTCY RULE 4001 (b), A RESPONSE IS
REQUIRED. THE TRUSTEE, IF ONE HAS BEEN APPOINTED, OR THE
DEBTOR SHALL FILE A RESPONSE TO ANY MOTION FOR RELIEF
FROM THE AUTOMATIC STAY WITHIN TWELVE (12) DAYS FROM
THE SERVICE OF THE MOTION. THE DEBTOR'S RESPONSE SHALL
INCLUDE A DETAILED AND COMPREHENSIVE STATEMENT AS TO**

HOW THE MOVANT CAN BE "ADEQUATELY PROTECTED" IF THE STAY IS TO BE CONTINUED. IF THE DEBTOR DOES NOT FILE A RESPONSE AS REQUIRED, THE ALLEGATIONS IN THE CREDITOR'S MOTION FOR RELIEF FROM THE AUTOMATIC STAY SHALL BE DEEMED ADMITTED, UNLESS GOOD CAUSE IS SHOWN WHY THESE ALLEGATIONS SHOULD NOT BE DEEMED ADMITTED, AND AN ORDER GRANTING THE RELIEF SOUGHT MAY BE ENTERED BY DEFAULT.

File a written response with the court at:

**CLERK, U.S. BANKRUPTCY COURT
EARLE CABELL U.S. COURTHOUSE, 1100 COMMERCE STREET, Room
1254,
DALLAS, TX 75242-1003**

UNDER BANKRUPTCY RULE 9006 (e) SERVICE BY MAIL IS COMPLETE UPON MAILING; UNDER BANKRUPTCY RULE 9006 (f), THREE (3) DAYS ARE ADDED TO THE PERIOD FOR FILING A RESPONSE WHEN NOTICE OF THE PERIOD IS SERVED BY MAIL.

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Movant, BAC HOME LOANS SERVICING, LP FKA
COUNTRYWIDE HOME LOANS SERVICING, L.P. ITS ASSIGNS AND/OR
SUCCESSORS IN INTEREST, by and through the undersigned attorney, and moves the
Court as follows:

1. This Motion is brought pursuant to 11 U.S.C. §362(d) in accordance with Rule 4001 of the Bankruptcy Rules.
2. On or about November 03, 2008, Debtors (hereinafter "Debtor") filed a petition for an order of relief under Chapter 13 of the Bankruptcy Code, 11 U.S.C.
3. At the time of filing the Chapter 13 petition, Movant held a Note executed on April 23, 2003, by JOHN FRITZ SELF and PAIGE DEAN SELF in the original amount of SEVENTY-THREE THOUSAND THREE HUNDRED TEN DOLLARS AND ZERO

CENTS (\$73,310.00) with interest thereon at the rate of 5.875% per annum. A true and correct copy of the Note is attached hereto as Exhibit "A".

4. The indebtedness is secured by a Deed of Trust dated April 23, 2003 and executed by JOHN FRITZ SELF and PAIGE DEAN SELF on real estate with all improvements known as:

ALL OF LOT TWENTY (20) IN BLOCK FIVE (5) OF THE HILL-TOP ADDITION, SECTION THREE (3), AND ADDITION TO THE CITY OF LAKESIDE CITY, ARCHER COUNTY, TEXAS, ACCORDING TO THE PLAT THEREOF OF RECORD IN VOLUME 3, PAGE 43, ARCHER COUNTY PLAT RECORDS.

A true and correct copy of the Deed of Trust is attached hereto as Exhibit "B".

5. Debtor have failed to maintain current the post-petition payments due under the Note and are presently in arrears for 5 payments through and including the May 1, 2009 payment.

6. The outstanding indebtedness to Movant is \$68,408.88 principal plus accrued interest, late charges, attorneys fees and costs as provided in the Note and Deed of Trust.

7. Further cause may exist to terminate the automatic stay if the Debtors fail to provide proof of adequate insurance and payment of applicable taxes by Debtors as required by the Note and Deed of Trust. Movant hereby demands proof of insurance and payment of applicable taxes by Debtors. Movant reserves the right to further assert that Debtors have failed to pay taxes or insurance based on the response of Debtors.

8. In accordance with the terms of the Note and Deed of Trust, Movant would allege that it is entitled to reasonable post-petition attorneys fees, including, but not limited to, fees, if any, for the preparation and filing of a proof of claim and fees and costs for the filing of this Motion for Relief from Stay.

9. Debtor have failed to provide adequate protection to Movant which constitutes cause to terminate the automatic stay of 11 U.S.C. §362(a).

10. By reason of the foregoing, Movant requests the Court to terminate the stay so Movant may proceed to foreclose in accordance with its Note and Deed of Trust.

11. The Movant further seeks relief in order to, at its option, offer, provide and enter into any potential forbearance agreement, loan modification, refinance agreement or other loan workout/loss mitigation agreement. The Movant may contact the Debtor via telephone or written correspondence to offer such an agreement. Any such agreement shall be non-recourse unless included in a reaffirmation agreement.

12. Movant reserves the right to assert an 11 U.S.C. § 362(d)(2) Cause of Action, if appropriate, at the hearing on Movant's Motion for Relief.

13. The provision of Rule 4001 (a) (3) should be waived and Movant be permitted to immediately enforce and implement any order granting relief from the automatic stay.

WHEREFORE, Movant prays that this Court enter an order, after notice and hearing, terminating the automatic stay as to Movant; alternatively, Movant be made whole by having all post-petition payments brought current. Movant further prays that the Court waive the provision of Rule 4001 (a) (3) and that BAC HOME LOANS SERVICING, LP FKA COUNTRYWIDE HOME LOANS SERVICING, L.P. ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST be permitted to immediately enforce and implement any order granting relief from the automatic stay; that Movant be awarded its reasonable post-petition attorneys fees and expenses for this Motion; and, that Movant be granted such other and further relief as is just.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER
TURNER & ENGEL, LLP

BY: /s/ PAUL KIM

5/8/2009

PAUL KIM

TX NO. 24001182

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ADDISON, TX 75001

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ATTORNEY FOR MOVANT

CERTIFICATE OF CONFERENCE

BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP, represents the creditor on the foregoing Motion. The undersigned, an attorney, employed by BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP, states that prior to filing the foregoing motion he/she did the following:

Debtor's Counsel failed to respond to the creditor's communication by the same time on the second business day after such communication.

NOTES: Paul Kim left a message with Sarah at the debtor's attorney's office regarding the property.

Date of Conference Call: May 05, 2009 12:52 p.m.

BY: /s/ PAUL KIM 5/8/2009
PAUL KIM
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Facsimile: (972) 341-0502
E-mail: NDECF@BBWCDF.COM
ATTORNEY FOR MOVANT

CERTIFICATE OF SERVICE

I hereby certify that on May 08, 2009, a true and correct copy of the foregoing Motion for Relief from Stay was served via electronic means as listed on the Court's ECF noticing system or by regular first class mail to the parties on the attached list.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER
TURNER & ENGEL, LLP

/s/ PAUL KIM 5/8/2009

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ATTORNEY FOR MOVANT

DEBTORS:

JOHN FRITZ SELF
106 CUTTER COVE
WICHITA FALLS, TX 76308

PAIGE DEAN SELF
106 CUTTER COVE
LAKESIDE CITY, TX 78308-5818

PAIGE DEAN SELF
106 CUTTER COVE
WICHITA FALLS, TX 76308

JOHN FRITZ SELF
106 CUTTER COVE
LAKESIDE CITY, TX 76308-5818

TRUSTEE:

WALTER O'CHESKEY
6308 IOLA AVENUE
LUBBOCK, TX 79424

US TRUSTEE:

1100 COMMERCE STREET, ROOM 976
EARLE CABELL FEDERAL BLDG
DALLAS, TX 75242

DEBTOR'S ATTORNEY:

MONTE J WHITE
1106 BROOK AVENUE
WICHITA FALLS, TX 76301

PARTIES IN INTEREST:

ARCHER COUNTY APPRAISAL DISTRICT
P.O. BOX 1141
ARCHER CITY, TX 76351-1141

PARTIES REQUESTING NOTICE:

ASCENSION CAPITAL GROUP, INC.
ATTN: ONYX ACCEPTANCE CORP (SERVICED BY CAPITAL ONE AUTO
FINANCE) DEP
P.O. BOX 201347
ARLINGTON, TX 76006

GE MONEY BANK
C/O RECOVERY MANAGEMENT SYSTEMS CORP.
25 SE 2ND AVENUE, SUITE 1120
MIAMI, FL 33131-1605

ARCHER COUNTY
C/O LINEBARGER GOGGAN BLAIR & SAMPSON, LLP
2323 BRYAN STREET
SUITE 1600
DALLAS, TX 75201